



BOSTON  
REGIONAL OFFICE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
33 ARCH STREET, 24TH FLOOR  
BOSTON, MA 02110-1424

August 4, 2025

**By ECF**

Honorable Andrew L. Carter, Jr., United States District Judge  
United States District Court for the Southern District of New York  
Thurgood Marshall Courthouse, 40 Foley Square  
New York, NY 10007

**Re: *Securities and Exchange Commission v. Zhabilov et al.*, 1:24-cv-007362**

Dear Judge Carter:

Plaintiff Securities & Exchange Commission (the “Commission”) writes in response to the July 30, 2025 letter from Kelli Austin (the “Austin Letter”) on behalf of the Camelot Nevada Trust (the “Trust”). The Austin Letter raises the suspended New York bar license status of Commission attorney Nita Klunder and seeks permission to file a motion for various forms of relief for the Trust, including disqualification of counsel, dismissal of the civil case, striking of all pleadings filed by Ms. Klunder, and referral of Commission counsel to disciplinary authorities. On July 30, the other Commission counsel on this matter learned for the first time that Ms. Klunder’s New York State bar license was suspended in 2022 for failure to register and pay related registration fees. *See* Exhibit A (Nov. 17, 2022 omnibus order captioned “In the Matter of Attorneys Who Are In Violation of Judiciary Law Section 468-1 For Failing to Register – Whose Last Names Begin with A Through Z”). Ms. Klunder has recently filed a motion for reinstatement. Ms. Klunder is licensed to practice law in the Commonwealth of Massachusetts, where she has been admitted to the bar since 2013 and has been in good standing since then.

The Austin Letter raises a declaration filed in *SEC v. Farber*, 1:24-cv-00273-JGK. In *Farber*, Ms. Klunder signed and filed a declaration (the “Farber Declaration”) as part of the Commission’s opposition to summary judgment motions. In the Farber Declaration, Ms. Klunder inaccurately stated that she was “a member of the bar of the State of New York and the United States District Court for the Southern District of New York” when she was suspended from the New York bar. The Commission has filed a letter in *Farber* addressing Ms. Klunder’s suspension, and will potentially do so in other cases. The Commission also acknowledges the notice requirements of Local Rule 1.5(h), and regrets that this Court was not earlier notified of Ms. Klunder’s suspension under that rule.

The Commission will file a Motion to Withdraw Ms. Klunder as counsel, and other Commission counsel will handle this case. Both Ms. Kelly and Mr. Jones are admitted in this

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case *pro hac vice*. See Dkt. No.'s 25 and 53. The Commission will also file a Motion to Withdraw Ms. Klunder as counsel in *SEC v. Farber*.

While the Commission has no objection to Ms. Austin's request to file a pre-motion letter on behalf of the Trust, the relief sought in the Austin Letter is neither necessary nor warranted. The Austin Letter cites no cases for the proposition that all pleadings prepared or filed by Ms. Klunder should be stricken from the record. The principal case cited by Ms. Austin, *Gucci America, Inc. v. Guess?, Inc.*, 2011 WL 9375 (S.D.N.Y. Jan. 3, 2011), does not support the legal propositions she claims. Further, there has been no prejudice to the defendants from this error such that dismissal of the complaint or striking of other pleadings is appropriate. The complaint is well-supported by the evidence and the cases cited in the Austin Letter, including *U.S. v. Chapman*, 524 F.3d 1073, 1090 (9th Cir. 2008) (upholding dismissal of indictment for "egregious[]" *Brady* and *Giglio* violations), are a far cry from this case. The request to impose individual sanctions on all Commission's counsel appearing in this matter (including disciplinary referrals) should also be denied in light of the facts and circumstances of this civil case.

The Commission will be prepared at the August 7 conference to address the matter with the Court.

Sincerely,

/s/ Marc Jones

Marc Jones, Senior Trial Counsel  
Rua Kelly, Senior Trial Counsel  
Securities and Exchange Commission

cc: All defense counsel (via ECF and email)